

AMENDMENTS TO LB 35

(Amendments to Standing Committee amendments, AM836)

Introduced by Lautenbaugh, 18.

1 1. Insert the following new sections:

2 Sec. 11. Section 25-1708, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 25-1708 Where it is not otherwise provided by this and
5 other statutes, costs shall be allowed of course to the plaintiff,
6 except as waived or released in writing by the plaintiff, upon a
7 voluntary payment to the plaintiff after the action is filed but
8 before judgment, or upon a judgment in his favor, favor of the
9 plaintiff, in actions for the recovery of money only, or for the
10 recovery of specific real or personal property.

11 Sec. 12. The parties to a civil action may, as part of
12 a settlement of the action, agree to the payment of costs of the
13 action.

14 Sec. 13. Section 25-1801, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 25-1801 Any person, partnership, limited liability
17 company, association, or corporation in this state having a
18 claim which amounts to ~~two~~ four thousand dollars or less against
19 any person, partnership, limited liability company, association,
20 or corporation doing business in this state for (1) services
21 rendered, (2) labor done, (3) material furnished, (4) overcharges
22 made and collected, (5) lost or damaged personal property, (6)

1 damage resulting from delay in transmission or transportation, (7)
2 livestock killed or injured in transit, or (8) charges covering
3 articles and service affecting the life and well-being of the
4 debtor which are adjudged by the court to be necessities of life
5 may present the same to such person, partnership, limited liability
6 company, association, or corporation, or to any agent thereof,
7 for payment in any county where suit may be instituted for the
8 collection of the same. If, at the expiration of ninety days after
9 the presentation of such claim, the same has not been paid or
10 satisfied, he, she, or it may institute suit thereon in the proper
11 court. If payment is made to the plaintiff by or on behalf of
12 the defendant after the filing of the suit but before judgment is
13 taken, except as otherwise agreed in writing by the plaintiff, the
14 plaintiff shall be entitled to receive the costs of suit whether
15 by voluntary payment or judgment. If he, she, or it establishes
16 the claim and secures judgment thereon, he, she, or it shall be
17 entitled to recover the full amount of such judgment and all costs
18 of suit thereon, and, in addition thereto, interest on the amount
19 of the claim at the rate of six percent per annum from the date
20 of presentation thereof, and, if he, she, or it has an attorney
21 employed in the case, an amount for attorney's fees as provided
22 in this section. If the cause is taken to an appellate court
23 and plaintiff shall recover judgment thereon, the appellate court
24 shall tax as costs in the action, to be paid to the plaintiff,
25 an additional amount for attorney's fees in such appellate court
26 as provided in this section, except that if the party in interest
27 fails to recover a judgment in excess of the amount that may

1 have been tendered by any person, partnership, limited liability
2 company, association, or corporation liable under this section,
3 then such party in interest shall not recover the attorney's fees
4 provided by this section. Attorney's fees shall be assessed by the
5 court in a reasonable amount but shall in no event be less than
6 ten dollars when the judgment is fifty dollars or less and when
7 the judgment is over fifty dollars up to ~~two~~ four thousand dollars
8 the attorney's fee shall be ten dollars plus ten percent of the
9 judgment in excess of fifty dollars.

10 Sec. 25. Section 33-117, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 33-117 (1) The several sheriffs shall charge and collect
13 fees at the rates specified in this section. The rates shall be
14 as follows: (a) Serving a capias with commitment or bail bond and
15 return, two dollars; (b) serving a search warrant, two dollars; (c)
16 arresting under a search warrant, two dollars for each person so
17 arrested; (d) unless otherwise specifically listed in subdivisions
18 (f) to (s) of this subsection, serving a summons, subpoena, order
19 of attachment, order of replevin, other order of the court, notice
20 of motion, other notice, other writ or document, or any combination
21 thereof, including any accompanying or attached documents, ~~ten~~
22 twelve dollars for each person served, except that when more than
23 one person is served at the same time and location in the same
24 case, the service fee shall be ~~ten~~ twelve dollars for the first
25 person served at that time and location and ~~two~~ three dollars and
26 ~~fifty cents~~ for each other person served at that time and location;
27 (e) making a return of each summons, subpoena, order of attachment,

1 order of replevin, other order of the court, notice of motion,
2 other notice, or other writ or document, whether served or not,
3 ~~five~~ six dollars; (f) taking and filing a replevin bond or other
4 indemnification to be furnished and approved by the sheriff, one
5 dollar; (g) making a copy of any process, bond, or other paper not
6 otherwise provided for in this section, twenty-five cents per page;
7 (h) traveling each mile actually and necessarily traveled within
8 or without their several counties in their official duties, three
9 cents more per mile than the rate provided in section 81-1176,
10 except that the minimum fee shall be fifty cents when the service
11 is made within one mile of the courthouse, and, as far as is
12 expedient, all papers in the hands of the sheriff at any one time
13 shall be served in one or more trips by the most direct route
14 or routes and only one mileage fee shall be charged for a single
15 trip, the total mileage cost to be computed as a unit for each
16 trip and the combined mileage cost of each trip to be prorated
17 among the persons or parties liable for the payment of same;
18 (i) levying a writ or a court order and return thereof, ~~fifteen~~
19 eighteen dollars; (j) summoning a grand jury, not including mileage
20 to be paid by the county, ten dollars; (k) summoning a petit jury,
21 not including mileage to be paid by the county, twelve dollars;
22 (l) summoning a special jury, for each person impaneled, fifty
23 cents; (m) calling a jury for a trial of a case or cause, fifty
24 cents; (n) executing a writ of restitution or a writ of assistance
25 and return, ~~fifteen~~ eighteen dollars; (o) calling an inquest to
26 appraise lands and tenements levied on by execution, one dollar;
27 (p) calling an inquest to appraise goods and chattels taken by an

1 order of attachment or replevin, one dollar; (q) advertising a sale
2 in a newspaper in addition to the price of printing, one dollar;
3 (r) advertising in writing for a sale of real or personal property,
4 five dollars; and (s) making deeds for land sold on execution or
5 order of sale, five dollars.

6 (2)(a) Except as provided in subdivision (b) of this
7 subsection, the commission due a sheriff on an execution or order
8 of sale, an order of attachment decree, or a sale of real or
9 personal property shall be: For each dollar not exceeding four
10 hundred dollars, six cents; for every dollar above four hundred
11 dollars and not exceeding one thousand dollars, four cents; and for
12 every dollar above one thousand dollars, two cents.

13 (b) In real estate foreclosure, when any party to the
14 original action purchases the property or when no money is received
15 or disbursed by the sheriff, the commission shall be computed
16 pursuant to subdivision (a) of this subsection but shall not exceed
17 two hundred dollars.

18 (3) The sheriff shall, on the first Tuesday in January,
19 April, July, and October of each year, make a report to the county
20 board showing (a) the different items of fees, except mileage,
21 collected or earned, from whom, at what time, and for what service,
22 (b) the total amount of the fees collected or earned by the officer
23 since the last report, and (c) the amount collected or earned for
24 the current year. He or she shall pay all fees earned to the county
25 treasurer who shall credit the fees to the general fund of the
26 county.

27 (4) Any future adjustment made to the reimbursement rate

1 provided in subsection (1) of this section shall be deemed to
2 apply to all provisions of law which refer to this section for the
3 computation of mileage.

4 (5) Commencing on and after January 1, 1988, all fees
5 earned pursuant to this section, except fees for mileage, by any
6 constable who is a salaried employee of the State of Nebraska shall
7 be remitted to the clerk of the county court. The clerk of the
8 county court shall pay the same to the General Fund.

9 2. On page 32, line 15, strike "29" and insert "33"; in
10 line 16 strike "28, 30, and 33" and insert "25, 32, 34, and 37";
11 in line 17 strike "13, 14, and 31" and insert "16, 17, and 35"; in
12 line 23 after the comma insert "28-521, and 33-117,"; and in line
13 24 strike "is" and insert "are".

14 3. On page 33, line 1, after the third comma insert
15 "25-1708, 25-1801,".

16 4. Renumber the remaining sections accordingly.